

ADDENDUM



REGULAR MEETING CITY OF ROSWELL COUNCIL - AGENDA THURSDAY, JANUARY 12, 2017 Roswell Museum and Art Center Bassett Auditorium - 100 W. 11th Street Roswell, New Mexico 88201

Notice of this meeting has been given to the public in compliance with Sections 10-15-1 through 10-15-4 NMSA 1978 and Resolution No. 16-69. Except for emergency matters, the City Council shall take action only on the specific items listed on the Agenda.

JANUARY 12, 2017

MAYOR - Dennis J. Kintigh

6:00 p.m.

Ward 1
Juan Oropesa
Natasha Mackey

Ward II
Steve Henderson
Caleb T. Grant

Ward III
Art Sandoval
Jeanine Best

Ward IV
Jason Perry
Savino Sanchez Jr.

Ward V
Barry Foster
Tabitha D. Denny

WELCOME! We are very glad you have joined us for the Roswell City Council meeting. If you wish to speak, please sign up at the podium prior to 6:00 p.m. All matters listed under Consent Items/Consent Agenda are considered routine by the City Council and will be approved by one motion. There will be no separate discussion on these items. If two members of the council desire to discuss the matter, that item will be removed from the consent agenda and will be considered separately. Any item approved as part of the consent agenda is not an agenda item for the purpose of public participation. The Council is pleased to hear relevant comments; however, a 3-minute limit is set in accordance with Resolution 16-69. Large groups are asked to name a spokesperson. Robert's Rules of Order govern the conduct of the meeting. "THANK YOU" for participating in your City Government.

NEW BUSINESS / REGULAR ITEMS

23a. - Resolution 16-81 and proposed Title VI plan - Consider approval of Resolution 16-81 and proposed Title VI plan to comply with NMDOT eligibility requirements. (Best/Najar)

Printed and posted: Monday, January 9, 2017

**ROSWELL NEW MEXICO
AGENDA ITEM ABSTRACT**

Regular City Council Meeting

Item No. 23a

Meeting Date: 01/12/2017

COMMITTEE: Infrastructure

CONTACT: Louis Najar

CHAIR: Jeanine Corn-Best

ACTION REQUESTED:

Resolution 16-81 and proposed Title VI plan – Consider approval of Resolution 16-81 and proposed Title VI plan to comply with NMDOT eligibility requirements. (Best/Najar)

BACKGROUND:

The NMDOT requires a current Title VI plan be submitted by the City to continue eligibility to receive federal funding through the NMDOT. An example of funding has been recent N. Main Pavement and ADA Improvement projects. These projects are approximately 85% federal funds and 15% local funds.

The NMDOT provided a boiler plate for the Title VI plan. Engineering prepared plan to fit City of Roswell. Draft Resolution and Title VI plan attached.

FINANCIAL CONSIDERATION

None at this time.

LEGAL REVIEW:

Resolution 16-81 and Title VI plan was submitted for review by City Attorney.

BOARD AND COMMITTEE ACTION:

Infrastructure Committee recommended (4-0) Resolution 16-81 and presented Title VI Plan at their meeting on December 19, 2016.

STAFF RECOMMENDATION:

Consider approval of Resolution 16-81 and proposed Title VI plan to comply with NMDOT eligibility requirements.

Attachments

Resolution 16-81

Draft Title VI NMDOT

RESOLUTION 16-81

**APPROVAL OF CITY'S TITLE VI PROGRAM FOR FEDERAL HIGHWAY
ADMINISTRATION FUNDING**

WHEREAS, recipients of Federal Highway Administration (FHWA) funding must submit their Title VI Plan to the New Mexico Department of Transportation Construction and Civil Rights Bureau; and

WHEREAS, the City of Roswell is a recipient of FHWA funding;

**BE IT RESOLVED BY THE CITY COUNCIL AS THE GOVERNING BODY OF THE
CITY OF ROSWELL, NEW MEXICO:**

The attached Title VI plan is hereby approved as the Title VI program of the City of Roswell as the recipient of Federal Highway Administration funding, and the City Manager is authorized to send a certified copy of this resolution to the New Mexico Department of Transportation.

PASSED, ADOPTED, SIGNED AND APPROVED this 12th day of January, 2017

Dennis Kintigh, Mayor

CITY SEAL

ATTEST:

Sharon Coll, City Clerk

DRAFT

Title VI Plan

City of Roswell, New Mexico



January 12, 2017

I. Nondiscrimination Statement of Policy

Title VI Policy Statement

The City of Roswell is committed to compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 2, and all related regulations and directives. The City of Roswell assures that no person shall on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity under any City of Roswell program, activity or service.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quantity, quality, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

Environmental Justice/Limited English Proficiency Policy Statement

The City of Roswell is also committed to assure every effort will be made to prevent the discrimination of low-income and minority populations as a result of any impact of its programs or activities in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and in Low-Income Populations. In addition, the City of Roswell also assures every effort will be made to provide meaningful access to persons that have Limited English Proficiency, in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.

Definition of Federal financial assistance and recipients affected

Federal financial assistance is defined as any Federal dollars that are assigned to the City of Roswell to support any program and activity, by way of grant, loan or contract, other than a contract of insurance or guaranty.

Specific Forms of Discrimination Prohibited

The City of Roswell efforts to prevent discrimination must address, but are not limited to:

- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which the benefit is provided.

- Segregation or separation in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which directly or indirectly or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities related to a highway, infrastructure or facility built or repaired in whole or in part with Federal funds.
- Discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

City of Roswell programs and services covered by Title VI

The City of Roswell Title VI Plan applies to all of the City of Roswell programs, activities and services, regardless of funding source. Some sections deal with specific requirements (e.g. FTA funded programs).

Authorities

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
2. Federal-Aid Highway Act of 1973 (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
3. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*) as amended, (prohibits discrimination on the basis of disability);
5. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability)
6. The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. § 4601
7. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321;
8. 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department of Transportation-Effectuation of Title VI Of The Civil Rights Act of 1964*);
9. 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
10. 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On the Basis Of Handicap In Program Or Activities Conducted By The Department Of Transportation*);
11. 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
12. 23 C.F.R. Part 200 (FHWA's Title VI/Nondiscrimination Regulation);
13. 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);

14.28 C.F.R. Part 50.3 (DOJ Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

II. FHWA Assurances for Title VI and Other Nondiscriminatory Statutes

The City of Roswell (hereafter referred to as the "Recipient") HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *non-discrimination, In Federally-Assisted Programs Of The Department of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Act, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measure necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the DOT, including the FHWA."

By signing this Assurance, City of Roswell also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The City of Roswell gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under Federal-Aid Highway Program. This ASSURANCE is binding on it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest and other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

By _____

Paula Hertwig-Hopkins
Interim City Manager

Dated: _____

DRAFT

III. Public Participation Plan (PPP)

The City of Roswell identifies minority populations for outreach by using demographic data. Much of this demographic data is obtained from the U.S. Census. The City communicates to minority populations through its website, postings at City Hall, and a flash board sign located on Main St. at the Convention Center.

Limited English Proficient individuals are served by a Spanish version of forms and applications for customers of City Utilities. The City of Roswell Website can be translated to Spanish by clicking on a "tools" icon and selecting "translate page". Many City staff members happen to be fluent in Spanish.

The City of Roswell considers input from minority populations as it does input from all of its Citizens. If the input can be incorporated or resolved at the department level, the appropriate department will act to meet the need expressed by the input. If the department cannot address the concerns expressed by the citizen, it is up to the department manager to bring the concerns to the attention of the City Manager and ultimately to the City Council.

Roswell City Council meetings comply with requirements of the Open Meetings Act.

IV. Title VI Complaint Procedures

The complaint procedures cover the following:

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Civil Rights Restoration Act of 1973
- Civil Rights Restoration Act of 1987
- Executive Order 12898
- Executive Order 13166

Any person believing he or she has been excluded from, denied participation in, denied the benefits of, or otherwise has been subjected to discrimination under any transportation service, program or activity (whether Federally funded or not) due to that person's race, color, national origin, gender, age, economic status, or limited English proficiency has the right to file a complaint.

An individual, group of individuals or entity may file a formal Title VI complaint. Complaints must be submitted to the Title VI Coordinator in writing, signed and dated, within 180 days of the alleged discriminatory act (or latest occurrence). The complaint should be submitted to the following address:

Damian Segura
Title VI Coordinator
1596 Pacheco St.
Suite 107
Santa Fe, NM 87505

The complaint should include the name, address, phone number and signature of complainant. The formal complaint should describe the alleged discriminatory act that violates Title VI in detail.

Title VI complaints may also be filed directly with the United States Department of Transportation (USDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA) or the Federal Railroad Administration (FRA) within the 180 day period of the alleged discriminatory act (or latest occurrence).

Title VI complaints must be investigated within 60 days. Investigating a complaint includes interviewing all parties involved and key witnesses. The investigator may also require relevant information. The City of Roswell may specify if there is a particular individual(s) that the City of Roswell should not investigate the complaint due to conflict of interest or other reasons.

Title VI complaints may be forwarded to either the New Mexico Department of Transportation or the Federal Highway Administration for investigation. If the complaint is forwarded to one of these agencies. The City of Roswell will provide the name and contract information for the person handling the Title VI complaint to the complainant.

Federal law prohibits retaliation against individuals because they have filed a discrimination complaint or otherwise participated in a discrimination investigation. Any alleged retaliation should be reported in writing to the investigator.

Title VI complaints may also be filed directly with the following agencies:

New Mexico Department of Transportation
Construction and Civil rights Bureau
1570 Pacheco St. Suite A10
Santa Fe, NM 87505
Phone: (505) 629-9890

Federal Highway Administration, New Mexico
4001 Office Court Dr.
Suite 801
Santa Fe, NM
Phone: (505) 820-2021

Sample Title VI Compliant Form

Section I

Name:

Address:

Telephone (Home/Cell):

Telephone (Work):

Email Address:

Section II

Are you filing this complaint on your own behalf: Yes ☐ No ☐

*If you answered "yes" to this question, go to Section III.

If you answered "no" please enter the name and relationship of the person you are filing the complaint against:

Name:

Relationship:

If you are filing a complaint as a third party, please explain why in the space below:

Have you have obtained permission of the aggrieved party if you are filing on behalf of a third party: Yes ☐ No ☐

Section III

I believe the discrimination I experienced was based on (check all that apply):

☐ Race

☐ Color

☐ National Origin

Date of Alleged Discrimination
(Month, Day, Year):

Date:

Explain, as clearly as possible, that happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as the names and contact information of any witnesses. If more space is needed please attach additional sheets to this form:

Section IV

Have you previously filed a Title VI complaint)? Yes ☐ No ☐

Section V

Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court? Yes ☐ No ☐

If yes, please check and name all that apply:

☐ Federal Agency: _____

☐ Federal Court: _____

☐ State Agency: _____

☐ State Court: _____

☐ Local Agency: _____

Please provide information about a contact person at the agency/court where the complaint was filed.

Name: _____

Title: _____

Agency: _____

Address: _____

Telephone: _____

Section VI

Name of agency complaint is against: _____

Contact person: _____

Title: _____

Telephone number: _____

Signature: _____

Date: _____

Please submit this form in person at the address below, or mail form to:

Damian Segura
Title VI Coordinator
1596 Pacheco St.
Suite 107
Santa Fe, NM 87505

V. Title VI Program Management Procedures

The purpose of the City of Roswell is to provide municipal services to residents and other users. These services include, but are not limited to, water, sewer, recreation, police, fire, zoning, streets, airport, and related services, along with being a local government agency that responds to citizen concerns.

The City accommodates requests by routing the request to the appropriate department for action by that department's director. The director may delegate some responses to staff. Many city employees, including some department heads, are fluent in Spanish. In addition, the City of Roswell website is available, translated in Spanish, by clicking a series of 2 icons on the City webpage.

The Title VI Coordinator shall:

- Monitor the transportation planning process overall strategies and goals and ensure compliance with Title VI requirements.
- Review operational policies and procedures to ensure Title VI compliance.
- Monitor the service equities of planning data collection and analysis for potential impacts on social, economic, and/or ethnic groups.
- Ensure the planning organizational membership attempts to reflect the makeup of the population served. This would include periodically reporting the MPO/RPO racial, ethnic, and gender composition of public involvement organizations or groups.
- Ensure the opinions and views of all groups within their populations are solicited and considered in the planning of transportation projects.
- Monitor compliance with Environmental Justice issues to identify low-income and minority populations that may be impacted by transportation planning process.
- Evidence that input from minority groups/persons has been considered in the transportation planning process. Evidence could include but is not limited to the participation level and composition of participants in public information settings. Also reporting any follow-up and conclusions to issues communicated throughout the planning process.
- Monitor the gathering and utilization of demographic data used to identify and locate low-income and minority populations in order to investigate the possible benefits and detriments of transportation plans on these populations.

- Monitor compliance with Limited English Proficiency populations to improve access and comprehension of the transportation planning process for individuals comprising the LEP population.

VI. Title VI Related Training

The Title VI Coordinator shall ensure that staff is trained and familiar with City of Roswell policies and procedures.

VII. Limited English Proficiency (LEP) Plan

Recipients of federal funding should conduct a Four Factor Analysis to prevent discrimination on the basis of limited English proficiency.

The Four Factor Analysis includes the following factors:

- **Number or Proportion of LEP Individuals:** This factor should describe your efforts to provide meaningful opportunities to your Limited English Proficient population. Your organization should ask *"What number or proportion of individuals will be excluded from benefits or services absent efforts to remove language barriers?"*
- **Frequency of Contact with the Program:** If LEP persons must access your program/activity daily, the recipient has a greater responsibility to tailor their services to the needs of LEP persons. This factor should be data driven and decisions should be in direct correlation through whatever data gathering exercises your organization uses.
- **Nature and Importance of the Program:** The need LEP individuals have access to benefits and services amplifies with programs where the denial or delay of access may have life or death implications. Recipients should identify programs of this type of importance and describe the process to ensure LEP persons are not denied or delayed in the service or benefit of that service.
- **Resources Available:** Your organization's may have limited resources may not have to take the same steps as a larger organization to provide LEP assistance in programs that have a limited number of LEP persons (e.g., where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to a person's day to day existence.) Claims of limited resources will need to be well-substantiated.

In addition, there should be an appropriate mix of written and oral language assistance. The following should be examined:

- When and if documents should be translated
- Process to identify when oral translation is needed
- When services should be immediately available

VIII. External Communication (Notification to public beneficiaries)

Information should be provided to members of the public detailing their Title VI obligation and notify members of the public of the protections against discrimination afforded to them by Title VI. Requirements including:

- **Dissemination of Information:** Information should be disseminated to members of the public via accessible printed and electronic media, including posting on the entities' website.
- **Contents of Notification:** At a minimum, the notification should include the following:
 1. Statement that your organization operates the Federal Program(s) without regard to race, color, national origin, sex, age, or disability.
 2. Identify procedures to be followed by members of the public to request additional information regarding your organizations Title VI obligation.
 3. Identify procedures to be followed by members of the public to file a discrimination complaint against your organization.

IX. Notice of Rights

A notice that the City of Roswell does not discriminate on the basis of race, color or national origin is posted on the City of Roswell website at:

<http://roswell-nm.gov/305/Policies>